In the High Court of Judicature at Madras

Dated: 16.11.2006

Coram:

The Honourable Mr.Justice M.E.N.PATRUDU

Writ Petition Nos.31847 to 31852 of 2003

E.Balakrishnan ..Petitioner in WP 31847/03

V.C. Chandrasekaran ..Petitioner in WP 31848/03

K. Srinivasan ..Petitioner in WP 31849/03

T. Sivanandan ..Petitioner in WP 31850/03

N. Karthikeyan ..Petitioner in WP 31851/03

K. Muniandi ..Petitioner in WP 31852/07

..vs..

1. The State of Tamil Nadu,
   rep.by its Secretary,
   Handloom, Handicrafts,
   Textiles & Khadi Department,
   Fort St.George,
   Chennai-600 009.

2. The Tamil Nadu Khadi and
   Village Industries Board,
   rep.by its Chief Executive Officer,
   Kuralagam,
   Chennai-600 108. ..Respondents in all the Petitions

Prayer in W.P.31847 of 2003: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of 2nd respondent in connection with his Proceedings 1)R.C.No.4220/E1(1)/2001-3, 2) RC No. 4220/E1(1) 2001-1 3) RC No. 4220/E1(1) 2001-1 4) RC 4220/E1(1) 2001-1 5) RC 4220/E1(1) 2001-1 and 6) RC 4220/E1 (1) 2001-1 respectively dated 25.09.2003 and quash the same so far as to the restriction of monetary benefits with effect from the date of impugned order and further direct the respondents to extend the monetary benefits to the petitioner from 1.4.1992 as per the directions issued by the Hon'ble Supreme Court in Civil Appeal No.6752-6754/1996 dated 13.08.2001 by

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working out notionally.

For Petitioner : Mr.V.Srinivasa Babu
For Respondents : Mr.C.K.Vishnu Priya,
Government Advocate

COMMON ORDER

Since identical issues are involved, all the writ petitions are heard together and a common order is passed.

2. The petitioners originally joined in Khadi Department and thereafter, the 2nd respondent Board was constituted on 01.04.1960 and they were transferred from the Khadi Department to the Board and they were absorbed in the Board. After absorption, the petitioners and other employees, who were transferred from the Khadi Department to the Board, made representations to fix their seniority from the date of appointment in the parent Department. While so, one Perumalsami filed W.P.No.1477 of 1980 to count his past services in the Khadi Department for the purpose of seniority and this Court passed an order on 08.12.1981, directing the respondents to count the past services in the parent department for fixing the seniority. The Government Order in G.O.Ms.No.667 dated 14.06.1984 was issued, re-fixing the seniority.

3. Aggrieved by the said Government Order, some of the employees of the Board filed W.P.No.396 of 1986, which was allowed on the ground that they were not given reasonable opportunity before re-fixing the seniority. Then, writ appeals in W.A.No.210 and 769 of 1992 have also been filed and in the said appeals, the petitioners are respondents and the said appeals were allowed by this Court on 03.02.1995, holding that the past service be taken into account for the purpose of seniority and for all other purposes and benefits. Aggrieved by the same, the 2nd respondent Board preferred a Civil Appeal before the Honourable Supreme Court of India in Civil Appeal Nos.6752 to 6754 of 1996, challenging the judgment in W.A.No.210 and 769 of 1992.

4. The Apex Court, while dismissing the Civil Appeals, observed that the financial benefits shall be limited to a period of three years prior to the date of the judgment of the High Court i.e.from the last date of the financial year prior to the date of the order i.e 31.03.1992.

5. The Apex Court hxas further clarified that the monetary benefits shall be actually given (though notional benefits are worked out according to the order of the High Court) from 1st April 1992.

6. Since the 2nd respondent did not consider the case of petitioner, the petitioner has approached this Court by way of writ in

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W.P.No.46514 of 2002 and this Court while disposing of the writ petition on 30.12.2002, issued the following direction;

> "If the judgment dated 13.09.2002 in Civil Appeal No.6752-6754 of 1996 stands attracted to the case on hand then the 2nd respondent is directed to consider the representations referred to above in the context of the said judgment within 60 days from the date of production of a copy of this order by the petitioner before him".

7. Thereafter, the impugned order in R.c.No.4220/E1(1)/ 2001-1 dated 25.09.2003 has been issued by the 2nd respondent, wherein at pages 2 and 3, the 2nd respondent has stated that,

> "Considering all the above facts and taking into account of the Supreme Court judgment orders, the revision of seniority of Thiru E.Balakrishnan, Assistant Director(retired) who had filed Writ Petition in the High Court is ordered as follows by restricting the monetary benefits from the date of issue of this order". (Emphasis supplied)

8. The grievance of the petitioner is that when the Supreme Court has given a direction that the monetary benefits shall actually be given from 1st April 1992, the 2nd respondent issued the order restricting the same from the date of issuance of the order, which is dated 25.09.2003.

9. The prayer of the petitioners is to quash the findings and direct the 2nd respondent to pay the monetary benefits from 1st April 1992.

10. The 2nd respondent filed a counter in W.P.No.31847 of 2003, wherein all the facts are admitted. It is also stated that the petitioners have retired from service and they have received retirement benefits.

11. The 2nd respondent is unable to explain in the counter the reasons for deviating the directions of the Supreme Court of India.

12. In para 13 of the counter, it is stated that benefits were given after examining the representation of the petitioner, which was given by him after ten years of his retirement on 30.06.1991. Hence, the revised benefits were ordered with effect from 25.09.2003 and it is correct.

13. Heard Mr.V.Srinivasa Babu, learned counsel appearing for the petitioner and Mrs.C.K.Vishnu Priya, learned counsel appearing for respondents 1 and 2. Perused the judgment of the Supreme Court in Civil Appeal Nos.6752 to 6754 of 1996.

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14. The Apex Court, in its judgment, has clearly observed that taking the financial conditions, the appropriate course to be followed is to direct the Board to give effect to the order made by the High Court by working out the notional benefits from the order of the writ appeals and not from the inception. Therefore, the Supreme Court has considered all the aspects and fixed the date as 01.04.1992 and it is the duty of the 2nd respondent to strictly implement the same. Instead of doing so, the 2nd respondent has passed an order, as if the 2nd respondent has got any liberty or discretion to exercise the date of monetary benefits to be given.

15. In the above circumstances, the observation of the 2nd respondent that the monetary benefits shall be payable from the date of issuance of the order, is quashed and the 2nd respondent is directed to disburse the monetary benefits from 01.04.1992 and it is the duty of the 2nd respondent to work out the entitlement of each individual and they are directed to complete the exercise within 30 days from the date of receipt of a copy of this order and the amount is to be paid to the petitioners within 30 days by the 2nd respondent thereafter.

16. In the result, all the writ petitions are allowed with costs of Rs.5,000/- to be payable by the 2nd respondent to each of the petitioners.

gl

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,
   Handloom, Handicrafts,
   Textiles & Khadi Department,
   Fort St.George,
   Chennai-600 009.

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2. The Chief Executive Officer,
   The Tamil Nadu Khadi and
   Village Industries Board,
   Kuralagam, Chennai-600 108

   (With a direction to the 2nd respondent
    to pay a sum of Rs.5000/- towards cost
    to each of the Writ Petitioners)

ONE CC TO MR.V. SRINIVASA BABU, ADVOCATE SR 56043

ONE CC TO THE G.P., SR 55381

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of 2003

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